

**ALBERTA  
INFORMATION AND PRIVACY COMMISSIONER**

**Report on Investigation Regarding  
Collection, Use and Disclosure of Personal Information**

**June 10, 2003**

**City of Calgary – Calgary Fire Department**

**Investigation #2589**

**I. INTRODUCTION**

[1] On November 4, 2002, the Commissioner received a privacy complaint regarding the amount of personal information collected by the City of Calgary's Fire Department from its "Personal Disclosure Form". The Complainant described the amount of personal information required by the Fire Department as "invasive" and questioned the Fire Department's authority to collect such information. The Complainant also expressed concerns that the information collected may be used for other purposes and questioned whether there were adequate security measures to protect the information collected.

[2] Section 53 of the *Freedom of Information and Protection of Privacy Act* ("the FOIP Act") sets out the Commissioner's general powers. Under section 53(1)(a), the Commissioner may conduct investigations to ensure compliance with any provision of the FOIP Act. In addition, section 53(2)(e) allows the Commissioner to investigate complaints that personal information has been collected, used or disclosed in contravention of Part 2 of the FOIP Act.

[3] In response to the complaint, the Commissioner authorized me to investigate this matter. This report outlines the findings and analysis of my investigation.

**II. BACKGROUND INFORMATION**

[4] The Fire Department said it had been reviewing its recruitment process for firefighters. The requirement of a completed Personal Disclosure Form from candidates was a significant change implemented by the Fire Department during its 2002 recruitment campaign.

[5] The 2002 recruitment campaign was a "transition" from the previous recruitment process to the new recruitment process. As such, information regarding the Personal Disclosure Form was not provided to candidates until after the recruitment campaign had already commenced. The Fire Department advised that additional information regarding its new recruitment process is currently being finalized and would be publicly available at the beginning of future recruitment campaigns.

[6] The name of the “Personal Disclosure Form” has been changed to the “Personal History Statement”. Therefore, the remainder of this report will refer to the form by its new name.

[7] The Fire Department advised that the Personal History Statement would be part of the application package. Therefore, candidates applying for employment as firefighters will be required to complete a Personal History Statement and attach it to their applications.

[8] The Personal History Statement is a comprehensive questionnaire. Questions are grouped into the following categories: driving, alcohol use, drug use, credit, school and employment, integrity, and personal background. Some of the questions relate to criminal activity, “*detected or undetected*”.

### **III. ISSUES**

[9] The issues in my investigation are:

1. Did the Fire Department collect personal information in contravention of Part 2 of the FOIP Act?
2. Did the Fire Department use personal information in contravention of Part 2 of the FOIP Act?
3. Did the Fire Department fail to protect personal information in contravention of Part 2 of the FOIP Act?

### **IV. DID THE FIRE DEPARTMENT COLLECT PERSONAL INFORMATION IN CONTRAVENTION OF PART 2 OF THE FOIP ACT?**

#### **1. Fire Department’s Position**

[10] The Fire Department claims the collection of personal information from the Personal History Statement is authorized under section 33(c) of the FOIP Act, which reads:

*33 No personal information may be collected by or for a public body unless*

*(c) that information relates directly to and is necessary for an operating program or activity of public body.*

[11] The Fire Department said firefighters are required to work in extreme conditions and times of crisis, involving life or death situations with the public, themselves, their co-workers and other emergency services personnel. Firefighters also hold positions of trust with the City and with the community. Further, firefighters would have access to information that could pose security risks. Given the nature of the firefighter’s job, the Fire Department says a comprehensive and rigorous recruitment process is necessary. The Personal History Statement is one of a number of techniques employed by the Fire Department as part of its recruitment process to screen and assess a candidate’s suitability and eligibility for employment as a firefighter.

[12] The Fire Department also said the Personal History Statement was developed under the direction of the Fire Chief. The Personal History Statement was reviewed and approved by the Fire Chief prior to its implementation into the recruitment process.

## 2. Analysis

[13] I agree that section 33(c) of the FOIP Act would allow the Fire Department to collect personal information that is relevant and necessary to its recruitment process.

[14] In Order 98-002 [para 181], the Commissioner said the decision as to what personal information is relevant and necessary rests with the “decision maker”. The Commissioner said he would give public bodies “considerable latitude” in this determination and that he would most likely not interfere provided the determination is not patently unreasonable. The requirement of reasonableness in relation to section 33(c) of the FOIP Act was reiterated in Order 2001-034 [para. 21].

[15] I find that the Fire Chief has authority to establish the recruitment/hiring criteria, policies and procedures for the Fire Department. The Fire Chief’s authority is established under the City of Calgary Bylaw 37M84, which states:

*“...The Fire Chief shall have complete responsibility and authority over the Fire Department...”* ; and

*“...The Fire Chief shall establish rules, regulations, policies and committees necessary for the proper organization and administration of the Fire Department...”*.

[16] Therefore, the Fire Chief is the “decision maker”. However, as stated above, the authority granted to the Fire Chief does not allow the Fire Department to collect any and all information about a candidate. The information collected must be reasonable under the circumstances.

[17] During the investigation, the Fire Department provided me with an explanation as to how each question in the Personal History Statement is relevant to the recruitment process for screening and assessing candidates for employment as firefighters. Some questions are based on findings from research and studies and some questions are based on potential conflict situations that a firefighter may encounter.

[18] In my view, there is a reasonable basis for the questions. Therefore, I conclude that the Fire Department’s collection of personal information from the Personal History Statement is authorized under section 33(c) of the FOIP Act.

## V. DID THE CITY OF CALGARY USE PERSONAL INFORMATION IN CONTRAVENTION OF PART 2 OF THE FOIP ACT?

[19] Section 39 of the FOIP Act outlines the provisions under which a public body may use personal information. Under section 39(1)(a), a public body may use personal information for the purpose for which the information was collected.

[20] The Fire Department collected personal information from the Personal History Statement as part of its recruitment process. The purpose of the collection is to screen and assess a candidate's suitability and eligibility for employment with the Fire Department. I found no evidence that the information collected was used for any other purpose. Therefore, I conclude that the Fire Department's use of the personal information from the Personal History Statement is in accordance with section 39(1)(a) of the FOIP Act.

## **VI. DID THE CITY OF CALGARY FAIL TO PROTECT PERSONAL INFORMATION IN CONTRAVENTION OF PART 2 OF THE FOIP ACT?**

[21] Section 38 of the FOIP Act reads:

*38 The head of a public body must protect personal information by making reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure or destruction.*

[22] The Fire Department says access to personal information collected from the Personal History Statement is permitted only to members of the Recruitment Team, which is comprised of four individuals. Each member signs a confidentiality agreement that states:

- the member is aware the information collected is confidential;
- any knowledge of the information collected is to be used only for the purpose of screening and hiring firefighters;
- the member will not disclose any information collected to anyone not authorized to acquire the information;
- any deviation of this agreement may result in disciplinary action; and
- the member understands that the information collected is protected under the FOIP Act and that the member will adhere to the FOIP Act at all times.

[23] Completed Personal History Statements submitted by candidates are kept in a locked cabinet in a secured site. All instances of access and use of the information are noted.

[24] I believe the Fire Department has implemented reasonable security arrangements to protect personal information as required under section 38 of the FOIP Act.

## **VII. OTHER MATTERS**

[25] The Complainant also raised the following issues/concerns:

- The Complainant asked the Commissioner to investigate whether the Fire Department's use of the Personal History Statement was "ethical" and a violation of the human rights legislation.

The Complainant was advised that these matters are outside the Commissioner's jurisdiction. Therefore, this investigation will not review or comment on these specific matters. If the Complainant wished to pursue this aspect of the complaint, the Complainant would need to contact the Alberta Human Rights and Citizenship Commission.

- The Complainant asked whether the Fire Department could legitimately screen out candidates on all future recruitment campaigns as a result of information obtained from the Personal History Statement.

It is not within the mandate of this Office to review the fairness of the Fire Department's administrative and decision-making processes. Therefore, I have no authority to review and comment on this issue.

## VIII. CONCLUDING COMMENTS

[26] In summary, I conclude:

- Section 33(c) of the FOIP Act authorizes the Fire Department to collect personal information that is relevant and necessary to its recruitment process. The collection of personal information from the Personal History Statement is part of the recruitment process for the Fire Department. Therefore, the collection is in accordance with the Fire Department's authority under section 33(c) of the FOIP Act.
- The information collected from the Personal History Statement is used for the purpose for which the information was collected, namely to screen and assess candidates' suitability and eligibility for employment as firefighters. This is in accordance with section 39(1)(a) of the FOIP Act.
- The Fire Department has implemented reasonable security arrangements to protect personal information from unauthorized collection, use, disclosure or destruction as required under section 38 of the FOIP Act.

[27] This investigation has addressed those issues relevant to the FOIP Act. As there are no further actions that can be taken by this Office, this case is now closed.

Submitted by,

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Team Leader, FOIP